

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MICHAEL M. CICCARONE,
RHONDA MEKOSH
and MICHAEL MEKOSH

Plaintiffs,

vs.

B.J MARCHESE, INC.,
BENJAMIN MARCHESE, JR. and
BENJAMIN MARCHESE, III

Defendants.

Case No. 03 - 1660

AFFIDAVIT OF RICHARD F. LE FEBVRE

I, Richard F. Le Febvre, the undersigned, make this affidavit pursuant to 28 U.S.C. § 1746; that I am over the age of twenty-one; that I am competent to give testimony; and that the following statements herein are based upon my personal and professional knowledge and expertise, and are within a reasonable degree of credit and lending certainty.

1. I am President and CEO of AAA American Credit Bureau, Inc. ["AAA"]. My experience and knowledge come from my previous operation and management of a credit reporting agency ["CRA"] located in Flagstaff, Arizona. AAA was a company that obtained and merged credit information from the three major nationwide repositories (Experian, TransUnion, and Equifax) and prepared credit reports for their end-users who had permissible purpose on a nationwide basis.

Background and Experience

2. I have worked in the credit reporting industry for more than fourteen years. I have been President/CEO of AAA for thirteen years. My past responsibilities at AAA included managing the company's day-to-day operations, overseeing re-scoring, and managing our

1 consumer disputes department.

2 3. AAA and I have handled, updated, and corrected more than 75,000 consumer
3 reports/disputes as required under the Fair Credit Reporting Act ("FCRA"). We handled these
4 disputes when the subject consumer or lender had concerns regarding the consumer's eligibility
5 for credit. Also, if the credit scores seemed abnormally low based on the facts in the consumer's
6 credit report as judged by the lender. I have reviewed more than 30,000 credit applications over
7 my 15 plus years in the real estate industry as a CRA, loan officer, and owner of an escrow
8 company.

9 4. I have worked with consumers, lenders, credit furnishers, and the three national
10 credit repositories (Experian, TransUnion, and Equifax) to correct inaccuracies that caused the
11 lender to deny the consumer credit or charge higher fees. These inaccuracies were always the
12 result of the inaccurate reports generated from the data we received from all three national credit
13 repositories. I have the knowledge and expertise regarding how lenders look at a consumer's
14 overall eligibility, risk-based pricing, and rates/terms. I also know how much time and effort it
15 takes consumers when they dispute with furnishers and the three national credit repositories.

16 5. My work in re-scoring and helping consumers' correct errors in their credit
17 reports has drawn national attention. This includes the national media, invitations to participate
18 in congressional hearings, and invitations from the Federal Trade Commission ["FTC"] to
19 participate in roundtable discussions regarding the FCRA, FACTA, inaccuracies, and credit
20 scoring.

21 6. Credit scoring is fundamentally important to the American economy as a whole
22 and to individual Americans. "The American Dream" of owning a home, obtaining a job, an
23 automobile, or obtaining credit, insurance, or any other valuable asset now involves the creditors'
24 use of a credit report and a credit score. I have re-scored a consumer's file when the lender or
25 consumer has reason to believe that the credit files contain errors/problems or an extremely low

1 credit score. These problems often result from, but are not limited to, the following reasons:

- 2 ➤ Updating account balances
- 3 ➤ Deleting/updating inaccurate tradelines
- 4 ➤ Deleting obsolete tradelines
- 5 ➤ Updating/deleting public record data
- 6 ➤ Deleting inaccurate late payments
- 7 ➤ Updating incomplete and/or missing data

8 7. Every day, these errors can and do cost consumers money and/or result in denials
9 of credit, insurance, and employment. The errors cost consumers money by causing increased
10 interest charges and/or less favorable credit terms. Inaccurate information in credit reports is a
11 recurring and troubling problem that, under current practices in several huge industries, now
12 directly affects many facets of a consumer's life. I have seen and heard the frustration of
13 consumers who learn of these problems during our reinvestigation and/or through our other
14 services. AAA was one of the first credit reporting agencies that had the ability to re-score
15 consumers' credit files. This dates back to 1998. AAA has recalculated a great number of
16 consumers' credit scores with great success, and is considered one of America's foremost
17 rescoring companies (*Washington Post* 07/01).

18 8. As part of my day-to-day job duties, I analyze hundreds of consumer credit
19 reports monthly and compare the consumer credit information from each of the three major
20 national credit reporting agencies – Equifax Credit Information Services, Inc., Trans Union
21 Corporation and Experian Information Solutions, Inc. – to determine whether the information is
22 accurate and how the information impacts on the consumer's credit score, loan decision, and
23 creditworthiness.

24 9. As a result of my experience, I have particular expertise with understanding and
25 analyzing credit reports, credit scores, and the codes and documents used by credit reporting

1 agencies and lenders in connection with determining a consumer's eligibility for credit. This
2 experience also includes having expertise relating to the impact of inaccurate credit information
3 on a consumer's credit score(s), credit risk, and credit worthiness as it relates to a consumer's
4 financial needs.

5 **Value of the Settlement**

6 10. At the request of plaintiff's counsel, I have reviewed the following court
7 documents and agreements (1) Settlement Agreement and Release, (2) Order for Equitable Relief
8 dated March of 2004, (3) Supplemental Order for Equitable Relief dated April of 2004, and (4)
9 the Revised Plan of Allocation of settlement through July of 2004, regarding their clients
10 Michael M. Ciccarone, Rhonda Mekosh, and Michael Mekosh who, on behalf of themselves, and
11 on behalf of all others similarly situated.

12 11. The harm done to many class members without their consent and knowledge will
13 be mitigated by this settlement both presently, and in the future for class members who have
14 been damaged or impaired by this identity theft.

15 12. I have been asked to evaluate the proposed settlements of the above named class
16 action lawsuit against B.J. Marchese, Inc., Benjamin Marchese, Jr, and Benjamin Marchese, III
17 in terms of the value of the equitable relief for all plaintiffs and what it would cost class members
18 to get the challenged information removed from their credit files on an individual basis, if they
19 could, under the circumstances.

20 13. Most class members would have three options. First, they could of course do
21 nothing. Second, they could hire a re-scoring company like AAA during the mortgage process to
22 assist them in having the numerous issues removed. The cost of this service on a national basis
23 ranges from \$100 to \$500 and would depend on how many different tradelines were involved
24 and if the furnisher was corporative (which would be the largest factor). Third, they could hire a
25 "credit repair" clinic. These companies charge \$500 to \$1000 or even more, depending on a

1 consumer's desperation. (Many of these companies unfortunately operate in violation of the
2 Federal Credit Repair Organizations Act, a law passed a few years ago to combat abuses in the
3 credit repair industry.) These companies do not guarantee results, and in many cases the
4 consumer receives no benefit at all and is left with nothing to show for his or her money.

5 14. The most impressive and unprecedented relief obtained by class members as a
6 direct result of this case is that over **three thousand (3,700)** consumers many whom had no
7 knowledge that their privacy had been invaded and who were also not aware that they even
8 suffered any damages will also get relief.

9 **Value of Equitable Relief for Group "A"**

10 15. In short, with respect to the cost of having a third party correct the problem, the
11 minimum value of the settlement to individual class members in this group is at least \$100. The
12 FCRA allows for statutory damages of \$100 - \$1000 since impermissible access to consumer
13 reports is hard to evaluate under certain circumstances.

14 16. I should add that, even if the efforts of the class member's or their agents were
15 successful outside of the class, there would be no guarantee that the impermissible access would
16 not create other issues in the future. Consequently, the class member could be faced with the
17 added cost of having to repeat the process, which could create other damages.

18 17. I have also been asked by plaintiff's counsel to address the cause and effect of
19 having the impermissible inquiry reported then removed, and how that would affect an average
20 class member. I can state to the court within a reasonable degree of professional and credit
21 certainty and under general terms that it would have a positive affect in both credit scoring and
22 credit worthiness.

23 18. The average equitable relief for the overall class "A" member will be closer to an
24 **average of \$300 - \$400 per class member**. Some class members will have little or no equitable
25 relief and still others will have much more above and beyond my average estimate as stated

1 above. I evaluate and estimate the total equitable relief for group "A" is **\$1,295,000.00.**

2 **Value of Equitable Relief for Group "B"**

3 19. I break down group "B" loans taken out without the members knowledge and
4 consent into five categories (1) loans carrying a balance with no adverse reporting, (2) loans with
5 a balance with minor adverse reporting, (3) loans with a balance with major adverse reporting,
6 (4) loans with no balance, but minor adverse reporting, and finally (5) loans with a balance with
7 major adverse reporting and legal action taken against a class member. It has been represented to
8 me that the class size for group "B" is approximately eighty nine (89) class members.

9 20. I have also been asked by plaintiff's counsel to address the cause and effect of
10 having these five types of bogus loans reported then removed, and how that would affect an
11 average class member. I can state to the court within a reasonable degree of professional and
12 credit certainty and under general terms that the settlement will have a positive affect in both
13 credit scoring and credit worthiness. In my five categories, numbers 3 and 5 would have the most
14 equitable relief followed by numbers 2 and 4 with number 1 having the least equitable relief, but
15 all parties in group "B" would have some form of relief.

16 21. I can give the Court my opinion on the average equitable relief for group "B". My
17 opinion is very conservative, and is only based on one bogus loan plus only one impermissible
18 access. Some class members may have more damages based on multiply bogus loans and still
19 others may have multiply impermissible accesses by the defendants and other credit grantors. I
20 conservatively value the overall class for group "B" in the following manner:

- 21 • Category #1 - an **average of \$1000 per class member.**
- 22 • Category #2 - an **average of \$5000 per class member (many factors applied).**
- 23 • Category #3 - an **average of \$7,000 per class member.**
- 24 • Category #4 - an **average of \$2000 per class member (many factors applied).**
- 25 • Category #5 - an **average of \$10,000 per class member.**

1 22. Some class members will have different variations of this equitable relief based
2 on time and other factors including who the furnisher is, their policies, how each handles their
3 bad debt, if they sell that bad debt to third parties, or if they take legal action. I can still say that
4 the average equitable relief for the overall class in group "B" will be closer to an **average of**
5 **\$8,500 per class member** and will grow higher the longer it takes this case to be finalized, court
6 orders are issued, and the class lawyers begin to negotiate with the furnishers and the three
7 repositories. I evaluate and estimate the total equitable relief for group "B" is **\$756,500.00**.

8 **Value of Equitable Relief for Group "C"**

9 23. In short, with respect to the cost of having the consumer, a third party, or lawyer
10 correct the problem "if possible, but is highly unlikely without litigating", the minimum value of
11 the settlement to individual class members in this group is much higher.

12 24. Group "C" includes two categories: (1) members who traded in their automobiles
13 and defendants did not satisfy the pre-existing liens and (2) members who purchased used
14 automobiles for which the pre-existing liens were not satisfied. The class size for group "C" is
15 approximately ninety (90) class members.

16 25. I should add that, this group is by far more complex and the individual class
17 members would sustain more damage by the actions of the defendants than groups A or B. This
18 group is more likely to have only "major" adverse reporting, which included repossessions and
19 legal filings leaving class members with no asset and many times still liable.

20 26. I have also been asked by plaintiff's counsel to address the cause and effect of
21 having these two types of categories reported then removed, and how that would affect an
22 average class member. This group would sustain the most credit damage based on being first
23 reported as repossessed then followed by legal action to either collect the debt or collect the
24 automobile in question. The removal of these two major adverse reportings would have the most
25 positive affect in both the class member's credit score and their overall credit worthiness.

1 27. I give the following opinion based on pending and/or threatened legal actions
2 against class members in categories 1 and 2 above. My opinion on the average equitable relief
3 for this group is:

- 4 • Category #1 - an **average of \$15,000 per class member (plus fees and value of**
5 **vehicle).**
- 6 • Category #2 - an **average of \$21,000 per class member (plus fees and value of**
7 **vehicle).**

8 28. Some class members will have different variations of this equitable relief based
9 on time and other factors including who the furnisher is, their policies, how each handles their
10 bad debt, if they sell that bad debt to third parties, if the member needs to find another vehicle,
11 and hiring a lawyer. The average equitable relief for the overall class in group "C" will be closer
12 to an **average of \$17,000 per class member** and will grow higher the longer it takes this case to
13 be finalized, court orders are issued, and the class lawyers begin to negotiate with the furnishers
14 and the three repositories.

15 29. The longer it takes to bring this equitable relief the larger the damages are for
16 class members. Members of groups "B" and "C" will be more negatively affected by delays than
17 group "A". Members in groups "B" and "C" will also be exposed to multiple duplications as
18 these bad debts are bought and sold to numerous bad debt buyers creating additional credit
19 damage. I evaluate and estimate the equitable relief for "C" class members to be approximately
20 **\$3,043,000.00.**

21 **Conclusion Regarding Settlement and Class Counsel's Effort**

22 30. It is my opinion that the value of the total equitable relief for all class members is
23 approximately **\$5,094,500.00.**

24 31. While the settlement has a number of components, the following remarks relate to
25 what class counsel will do in order to restore (the best they can) the class members credit reports,

1 credit reputation, and credit worthiness. This means lots of man hours and having a trained staff
2 and/or hiring someone to train their staff to ensure that the proposed settlement agreement as it
3 relates to the class members' credit reports is enforced. In my own words this is a massive
4 undertaking.

5 32. In my more than fifteen plus years dealing with both credit furnishers and all three
6 national repositories processing these kinds of requests and making sure these corrections go into
7 effect will be no small undertaking. All parties must work together in unison regarding inquiries,
8 bogus loans, and legal actions to make sure once deleted they stay deleted and/or corrected.

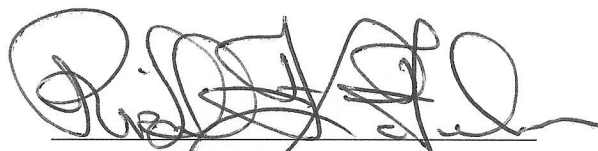
9
10 I state the above opinions within a reasonable degree of credit and professional certainty.

11
12 **Compensation**

13 I am being compensated for my unique expertise at the rate of \$250.00 per hour for non-
14 testimonial consultation, expert report, or review and advice. I charge at the rate of \$350.00 per
15 hour for my court testimony and/or deposition. These fees do not include my expenses and
16 travel, which are separately itemized.

17
18 I declare under penalties of perjury under the laws of the United States of America that the
19 foregoing is true and correct.

20
21 This the 16th day of August, 2004

22
23 

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